THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 24527 of 2005

DATED: 01.02.2006

Between:

Sri A.Sudhakar.

... PETITIONER

AND

A.P.Beverages Corporation Limited and another.

... RESPONDENTS

ORDER:

The petitioner was initially employed as a Junior Executive in M/s.Hyderabad Allwyn Limited, an undertaking of Government of Andhra Pradesh. On privatization of the said Company, the petitioner was deployed by the Government of Andhra Pradesh as Junior Executive in A.P.Beverages Corporation Limited, 1st respondent herein. The petitioner was irregular in his duties and was absent with effect from 01.05.2000. The petitioner contends that he was forced to remain absent, on account of health and domestic problems. He states that when he reported to duty on 01.10.2002, before the 1st

respondent, he was issued a Memo, dated 25.09.2002, directing him to appear before the 2nd respondent herein, for necessary directions. After some correspondence ensued between respondents 1 and 2, the petitioner was issued a Charge Memo, dated 12.05.2004. The petitioner submitted his explanation and an enquiry officer was appointed. The enquiry officer, in turn, had submitted a report to the effect that the charges levelled against the petitioner are not proved.

This Writ Petition is filed seeking a declaration that the action of the respondent in not allowing the petitioner to work and discharge duties and not releasing the salary and allowances is illegal, arbitrary and violative of Articles 14, 21 of the Constitution of India. Consequential directions are also sought for.

After filing this Writ Petition, the 1st respondent issued a Show Cause Notice, dated 29.11.2005, directing the petitioner to show cause as to why the findings recorded by the enquiry officer be not disagreed with and further action be not taken. The petitioner has submitted his explanation thereto on 30.12.2005.

The matter was heard at length on 31.01.2006. The parties have submitted voluminous material in support of their respective contentions and the learned counsel for the petitioner has made elaborate submissions.

The Writ Petition was filed, at a stage, when the enquiry officer submitted his report, holding that the charges levelled against the petitioner are not proved. The petitioner was not even aware of the said report. The Show Cause Notice was issued to the petitioner, at a later stage.

Having regard to these facts, this Court directed the respondent herein to consider the feasibility of permitting the petitioner to join duty. Accordingly, the petitioner was taken on duty on 31.01.2006. With this, the grievance of the petitioner stands redressed substantially. The nature of action to be taken, in

the matter would depend upon the outcome of the disciplinary proceedings.

The petitioner vehemently contends that it is on account of the refusal on the part of the respondents, that he was not taken on duty, ever since 01.10.2002. The 1st respondent, on the other hand, insists that the petitioner did not report to duty. Be that as it may, now that the petitioner had reported to duty. He shall continue to discharge his functions and the respondents shall pay him salary. The scope of the disciplinary proceedings, which were initiated against the petitioner, shall be limited to the instance of absence indicated therein.

The question as to whether the petitioner would be entitled to be paid any emoluments for the period from 01.10.2002 to till date would constitute the subject matter of separate set of proceedings. For this purpose, the petitioner shall be required to make a representation, and the 1st respondent shall take the same into account and pass an order, in that regard, within a period of three (3) months from the date of receipt of the same. The disciplinary proceedings, pending against the petitioner, shall also be concluded, within a period of three (3) months from the date of receipt of a copy of this order.

The Writ Petition is disposed of, with the above observation. There shall be no order as to costs.

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01.02.2006

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